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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Inquiry concerning Kyrgyzstan under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

Report of the Committee

I. Introduction

1. On 29 November 2013, the Committee on the Elimination of Discrimination against Women received information from 14 organizations pursuant to article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The sources allege that Kyrgyzstan has committed grave and systematic violations of rights under the Convention owing to its failure to prevent, protect and assist victims, as well as to prosecute and adequately punish perpetrators, of bride kidnapping in the State party.

2. Kyrgyzstan acceded to the Convention on 10 February 1997 and to the Optional Protocol on 22 July 2002.

II. Submission by the sources of information

3. The sources submit that the State party has failed: (a) to take adequate measures to prevent perpetrators from engaging in bride kidnapping; (b) to adopt adequate legislation to address the issue; and (c) to enforce existing laws criminalizing bride kidnapping.

4. The sources also submit that bride kidnapping is widely tolerated and that there are common misperceptions within society, for example, the belief that bride kidnapping reinforces a man's masculine identity, is based on mutual consent and is a legitimate way to found a family. Families of victims are reportedly often reluctant to allow them to return home owing to the perceived shame for the family, irrespective of whether they have been subjected to sexual and/or other forms of gender-based violence.

5. According to the sources, bride kidnapping is pervasive in the State party. Victims are confined to the roles of caregivers and housekeepers and are subjected to

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abuse, neglect and isolation. Bride kidnapping therefore constitutes a grave violation of the rights of victims to life, security and physical and mental integrity and to freely choose their spouse. In addition, the sources are of the view that the continuous, widespread and accepted practice of bride kidnapping in Kyrgyzstan constitutes a systematic violation within the meaning of article 8 of the Optional Protocol. They claim that the information provided in the submission reveals systematic violations of articles 1, 2, 5, 6, 10 to 12 and 14 to 16 of the Convention.

III. Procedural history

6. During its forty-second session, in 2008, the Committee examined the third periodic report of Kyrgyzstan and requested the State party to submit follow-up information on the enforcement of the laws criminalizing bride abduction, forced marriage and polygamy in the State party. In May 2011, the State party submitted information under the follow-up procedure. At its fiftieth session, in 2011, the Committee considered that Kyrgyzstan had not implemented its recommendations to ensure full respect for these laws. In July 2014, the State party submitted additional follow-up information.

7. On 11 November 2014, the State party submitted observations on the information received from the sources under article 8 of the Optional Protocol. It provided statistical information indicating low rates of reporting, prosecution and conviction for bride kidnapping and stated that there are 13 crisis centres for victims of violence against women in the country. The State party submitted that only a few victims file complaints with the law enforcement agencies and that family members who are complicit in the crime generally enjoy impunity.

8. At its sixtieth session, in 2015, the Committee considered the fourth periodic report of Kyrgyzstan. It adopted concluding observations (CEDAW/C/KGZ/CO/4) in which it reiterated its concern about the abduction of women and girls for forced marriage in the State party, while acknowledging the amendments of 2013 to the Criminal Code providing for increased sanctions for this crime. The Committee made recommendations on law enforcement, capacity-building, awareness-raising and support for victims in relation to bride kidnapping.

9. From its fifty-ninth to sixtieth sessions, the Committee examined all the information received and found the allegations to be reliable and indicative of grave or systematic violations of rights under the Convention. It designated Lia Nadaraia and Theodora Oby Nwankwo[1] to conduct an inquiry.

10. On 4 October 2016, the State party agreed to a visit of the designated members to the country. The visit was conducted from 13 to 19 December 2016, during which the designated members met the Vice-Prime Minister of Kyrgyzstan, the Minister of Labour and Social Development, the Minister of Education and Science, the Deputy Minister for Foreign Affairs, the Deputy Minister of Internal Affairs, the Minister of Justice, the Deputy Chair of the Supreme Court, the Deputy General Prosecutor, the Ombudsperson, the Deputy Director of the State Commission on Religious Affairs under the Office of the President, members of the Zhogorku Kenesh (parliament) and representatives of the central government, local self-governing bodies and law enforcement bodies in the Issyk Kul and Osh regions. They visited crisis centres for women who are victims of violence in Bishkek, Osh and Karakol and interviewed victims of bride kidnapping, civil society representatives, academics, rural women who are activists and Muslim religious leaders.

[1] Ms. Nwankwo passed away on 9 December 2017.

11. On 19 January 2017, the State party submitted additional information on measures taken to prevent and combat bride kidnapping, such as police training and assistance for victims, as well as data on investigations, prosecutions and convictions under articles 154 and 155 of the Criminal Code.

IV. Scope of the report

12. The Committee notes the need to distinguish consensual elopement from non-consensual bride abduction. Consensual elopement traditionally takes place with the prior mutual consent of the bride and the groom. It is rooted in the cultural tradition of overcoming the resistance of parents to a marriage by kidnapping the bride with the help of the relatives of the groom and often serves the purpose of avoiding high expenses for a wedding ceremony.

13. The designated members were informed by some interlocutors that non-consensual bride abduction is not part of traditional Kyrgyz culture, but rather is a harmful practice that regularly involves child and/or forced marriage, the payment of a dowry or bride price and polygamy,[2] as well as gender-based violence, including rape of the victim.

14. The scope of the present report is limited to bride kidnapping as a non-consensual act.

V. Legal framework on bride kidnapping in Kyrgyzstan

15. The abduction of a girl or woman for forced marriage is defined as a crime in articles 154 (2) and 155 (2), respectively, of the Criminal Code of Kyrgyzstan. In 2013, the maximum penalties were increased to 10 years' imprisonment for the abduction for forced marriage of a person under the age of 17 years (article 154 (2)) and to seven years' imprisonment for the kidnapping of a person over that age (article 155 (2)). Rape is punishable by five to eight years' imprisonment (article 129). Marital rape is not specifically criminalized.

16. Article 26 (3) of the Code of Criminal Procedure defines the crimes that are subject to "private-public prosecution" as "crimes of minor gravity" (article 10 of the Criminal Code) and less serious crimes (article 11 of the Criminal Code), for which the penalties do not exceed two and five years' imprisonment, respectively, as well as rape (article 129 of the Criminal Code) and other acts of sexual violence (article 130 of the Criminal Code), but remains silent on the prosecution of those crimes. The Ministry of Internal Affairs informed the designated members that, with respect to private-public accusation, criminal prosecution can be initiated only upon complaint by the victim, a legal representative or a third person and shall be terminated upon reconciliation of the parties. In accordance with article 26 (4) of the Code of Criminal Procedure, all other crimes, such as grave crimes that are punishable with a term of imprisonment of more than five years but not more than 10 years (article 12 of the Criminal Code), including crimes punishable under articles 154 (2) and 155 (2), are subject to public prosecution, which does not depend on a criminal complaint and cannot be terminated upon reconciliation of the parties.

17. Only marriages concluded before a State authority or the authorities of local self-governing bodies authorized to register civil acts are recognized by law in the

[2] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, paras. 20–28.

State party. Religious wedding ceremonies have no legal effect, in accordance with article 1 (2) of the Family Code.

18. In an amendment to the Criminal Code of 17 November 2016, a new article 155[1] was added, in which it is stated that the parents (or guardians) of a minor who undergoes a religious wedding ceremony, persons who conduct a religious wedding ceremony involving a minor and persons above the age of 18 years who undergo a religious wedding ceremony with a minor in violation of the law on the minimum age of marriage are punished with imprisonment of from three to five years.

19. Article 14 of the Family Code establishes the minimum age of marriage at 18 years and allows for the age of marriage to be lowered by one year on the basis of a decision by the local administration.

VI. Findings of fact

A. Gender stereotypes and sociocultural context of bride kidnapping

20. In a national survey conducted by the United Nations Population Fund and the United Nations Entity for Ge der Equality and the Empowerment of Women (UN-Women) in 2016, approximately 80 per cent of the respondents opposed bride kidnapping.[3] In this regard, the Committee notes as positive the information received by the designated members that education on gender equality has been included in certain school curricula and training for teachers and that school competitions and theatre plays on bride kidnapping have been organized by local village committees on the elimination of domestic violence.

21. While only 3 per cent of respondents from urban areas and from 5 to 6 per cent of respondents from rural areas viewed bride kidnapping positively, 14.9 per cent of the male respondents from rural areas were indifferent to bride kidnapping.[4] In certain regions, more than 30 per cent of the men believed that the victim of bride kidnapping should marry the abductor.[5]

22. During their meetings with the Deputy Minister for Foreign Affairs, the Deputy Minister of Justice, the Deputy Director of the State Commission on Religious Affairs and the Deputy Chair of the Supreme Court, held on 14, 15 and 19 December 2016, the designated members noted a tendency to downplay the extent of bride kidnapping. The local administration in Osh denied outright that bride kidnapping persists in the region.

23. The Director of the Sezim Crisis Centre in Bishkek informed the designated members that, during the Soviet era, bride kidnapping was not criminalized, which led to the perception that it was a harmless tradition. A member of parliament explained that, after the collapse of the Soviet Union, a "lost generation" of Kyrgyz men had sought reaffirmation of their masculinity and cultural identity in practices such as bride kidnapping. While bride kidnapping was not widespread during Soviet times, the number of cases per year is currently estimated at 12,000.[6] The Committee notes that the maternal mortality rate in the State party is one of the highest in the

[3] United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and United Nations Population Fund (UNFPA), *Gender in Society Perception Study (National Survey Results)* (Bishek, UNFPA, 2016), p. 112.

[4] Ibid.

[5] Ibid., p. 123.

[6] See Asian Development Bank, "Kyrgyz Republic: 16 day campaign to end gender-based violence (2013)", December 2013; and UN-Women, "Stopping bride kidnapping in Kyrgyzstan", 9 August 2016.

region.[7] This can be attributed in part to the fact that bride kidnapping often results in early pregnancies.[8]

24. During the visit, the designated members interviewed more than 30 victims of bride kidnapping in Bishkek, Karakol and Osh. Many interviewees stated that women who run away from kidnappers are stigmatized and considered by their communities to be a shame for their families. They are presumed to have lost their virginity, which makes it difficult for them to find a husband of their choice. In Kyrgyz society, the social status of married women is higher than that of unmarried women. According to the police department in Karakol, victims who were pressured into consenting to marriage therefore usually deny that they were kidnapped. According to the Meerman Crisis Centre in Karakol, victims are stigmatized when they take a kidnapper to court, are unable to return to their villages and are sometimes compelled to emigrate.

B. Circumstances of abductions

25. The designated members observed that victims from low-income families and/or female-headed households are especially vulnerable to bride kidnapping. In some cases, the kidnapper took advantage of the fact that the victim's father was ill,[9] had died[10] or had left the family.[11] Kidnappers often have a low level of education, limited professional prospects and low self-esteem. By kidnapping the victim, they are trying to avoid having to compete with other men, being rejected or having to pay for the wedding and a high bride price.[12]

26. The Committee notes that the scenarios of bride kidnapping vary, but that there is one recurrent pattern: a perpetrator or his parents choose a victim, who is abducted, usually with the help of family members or friends. She is brought by force to the house of the kidnapper's parents, where preparations for a traditional wedding ceremony are already under way. The kidnapper's family normally puts pressure on the victim to consent to the wedding, sometimes assisted by the victim's parents, who wish to avoid the stigma attached to victims who escape forced marriage.[13] As soon as the consent of the victim or her parents has been obtained, the perpetrator's family celebrates the religious wedding ceremony. The victim is regularly raped in the night following the ceremony.

27. Most victims interviewed, including those who, after persuasion, consented to the marriage, described the shock that they had experienced. The majority of victims interviewed decided to stay with the kidnapper. Many were ashamed that they had been raped.[14] The designated members were told that, in 2012, two 18-year-old university students from the Issyk Kul region had committed suicide after having been

[7] 76 deaths per 100,000 live births (United Nations Development Programme (UNDP), *Human Development Report 2016: Human Development for Everyone* (New York, UNDP, 2016), p. 215).

[8] Meeting with United Nations entity on 12 December 2016.

[9] Interviews with victim M. from Uzbekistan, 13 December 2016, and victim G. from Karakol, 16 December 2016.

[10] Interviews with victim A. from Jalalabad, 12 December 2016, victim I. from Bishkek, 13 December 2016, victim A. from Ak-Suu district, 17 December 2016, victim E. from Osh, 18 December 2016, and victim Y., 18 December 2016.

[11] Interview with victim H. from Karakol, 16 December 2016.

[12] UN-Women and UNFPA, *Gender in Society Perception Study*, p. 133.

[13] Interviews with victim A. from Jalalabad and victim X. from Naryn, 12 December 2016.

[14] Interview with the Director of the Sezim Crisis Centre, 13 December 2016. See also Begimai Sataeva, *Public Shaming and Resistance in the Context of the Bride Kidnapping Phenomenon in Kyrgyzstan*, master's thesis, Utrecht University, 2017.

kidnapped. In about one fifth of cases, victims are set free after threatening to call the police or escape.[15]

C. Non-registration of marriages and religious wedding ceremonies

28. As it is considered a sin to enter into intimate relations without a religious wedding ceremony, the kidnapper's family usually invites an imam or other person, who is not necessarily an official religious authority, to officiate at the ceremony once the victim's "consent" has been obtained under pressure. Religious leaders explained that a religious wedding ceremony without the consent of both parties is not valid. In practice, religious wedding ceremonies are reportedly performed even in the absence of the woman's or girl's consent. Notwithstanding the new article 155[1] criminalizing the religious clergy, families and adults involved in religious wedding ceremonies involving girls, such ceremonies continue to be performed.

29. The designated members met religious leaders, including women, who confirmed that no registry of religious unions exists. They explained that a proposed amendment to the Family Code, which would have required the prior civil registration of a marriage for a religious wedding ceremony to take place, had been withdrawn in parliament, as it was argued that it would have interfered with religious freedom. Religious unions without civil registration therefore continue to be conducted, despite having no legal effect.

D. Role of relatives

30. Many victims stated that their families, especially their mothers, had assisted the kidnapper by either facilitating the abduction or putting pressure on the victim to stay with him. In some cases, the mother of the victim had been a victim of bride kidnapping herself.[16] While most victims felt betrayed by their parents, some also emphasized the good intentions of their parents and the societal or financial pressure placed upon them.

31. The members took note of cases in which parents had been supportive of victims, protected them and brought charges against the perpetrators, especially in cases in which the daughter was underage[17] or the groom had a criminal record and/or had been married before and had divorced.[18]

E. Role of the judiciary and law enforcement agencies in investigating, prosecuting and punishing cases of bride kidnapping

32. The prevention and investigation of crimes fall under the responsibility of the investigative units of the police. Prosecution authorities informed the designated members that their mandate was limited to ensuring that the internal affairs bodies conduct proper investigations.

33. The Deputy Minister of Internal Affairs emphasized that the investigation of crimes related to bride kidnapping was a priority. However, United Nations sources indicate that only a few cases of bride abduction are officially registered in the State

[15] Open Society Institute and Open Line, report on bride kidnapping in Kyrgyzstan (Bishkek, 2010), p. 56.

[16] Interview with victim X. from Naryn.

[17] Victim H. from Karakol was 14 years old when she was kidnapped.

[18] The kidnapper of victim A. from Talas region, interviewed on 18 December 2016, had a criminal record and was divorced.

party.[19] Internal affairs bodies are not interested in such cases, as complaints, even when they are filed, are rarely brought to court because the families of the victim and the perpetrator often settle the case through reconciliation.[20] According to figures received by the designated members from the Supreme Court, of the 197 criminal cases initiated under article 155 of the Criminal Code from 2011 to 2016, 112 were referred to the courts, 26 were terminated upon withdrawal of the complaint and 32 were suspended because the accused had evaded criminal proceedings; 38 perpetrators were convicted in 2015 and 27 in 2016. During the same period, 63 criminal cases were initiated under article 154, of which 38 were referred to the courts, 12 were terminated upon withdrawal of the charges and 6 were suspended; two perpetrators were convicted in 2015 and five in 2016.

34. The designated members noted that several officials were unaware that the crimes under articles 154 (2) and 155 (2) of the Criminal Code are subject to public prosecution.[21] Given the limited knowledge on the part of law enforcement authorities, the distinction between private-public and public prosecution is not strictly applied in practice.[22] Many police officers reportedly believe that they cannot accept complaints from third persons and that they must close a criminal case as soon as the victim has reconciled with the perpetrator and withdrawn her complaint. As a result, cases involving abduction are often terminated upon reconciliation and withdrawal of the complaint. The Minister of Labour and Social Development acknowledged the need for capacity-building for law enforcement officers to address this implementation gap.[23]

35. Forced sexual intercourse following bride kidnapping is prosecuted under article 129 of the Criminal Code only if the victim indicates in her complaint that she was raped, owing to the private-public nature of this crime.

36. According to the Deputy General Prosecutor, it is the exception rather than the general rule that victims withdraw their complaint, and, even if they do so, they can always submit new evidence or circumstances to reopen a criminal case. However, victims and other non-governmental sources informed the designated members that, in most bride kidnapping cases, perpetrators are not punished either because the victim does not file a complaint or because the victim withdraws her complaint after the families of the victim and the kidnapper reconcile. At the meeting with the designated members, the Minister of Labour and Social Development also expressed concern about the practice of terminating cases of forced marriage upon reconciliation.[24]

37. Victims interviewed by the designated members mentioned reluctance on the part of the police to investigate cases of bride kidnapping and refer them to the courts. Police officers are influenced by traditional stereotypes, often discourage victims from filing a complaint and sometimes are under pressure from within their communities or receive bribes so as not to investigate reports of bride kidnapping. One victim[25] said that her husband and his brother, who both had raped her, had forced her to withdraw her complaint. As she was under 16 years of age and could not write

[19] UN-Women and UNFPA, *Gender in Society Perception Study*, p. 119.

[20] Ibid., p. 126.

[21] Joint meeting with State authorities on 13 December 2016 (Deputy Minister of Internal Affairs); meeting with the head of the investigation unit of the police department in Karakol on 16 December 2016; and meeting with the Deputy General Prosecutor on 19 December 2016.

[22] Meeting with United Nations entity on 12 December 2016.

[23] Meeting with the Minister of Labour and Social Development on 14 December 2016.

[24] Ibid.

[25] Interview with victim A. from Ak-Suu district, 17 December 2016.

the withdrawal letter herself, the police officer had written it for her, without interrogating the kidnapper or his family.

38. Another barrier to the access of victims to justice is that, under the Code of Criminal Procedure, a victim's testimony must be supported by forensic evidence. While forensic evidence can be obtained at the regional level from trained medical personnel for cases in which physical violence was used to force a victim of bride kidnapping to enter into child and/or forced marriage, it can be obtained from the State Forensics Centre in Bishkek only in cases involving psychological violence. According to the Ministry of Justice, the law enforcement agencies are often unable to establish the victim's lack of consent in the absence of such evidence. Cases involving psychological violence are therefore frequently not referred to the courts, or the courts acquit the accused.

39. In addition, Kyrgyz courts rarely make full use of the increased penalties for bride kidnapping introduced by the amendments of 2013 to articles 154 (2) and 155 (2). Non-governmental organizations informed the designated members that the courts tend to impose suspended sentences when the convict is a first-time offender and that, in some cases, they treat bride kidnapping as an administrative offence and merely impose a fine, notwithstanding the more severe penalties prescribed by law.[26]

40. According to non-governmental organizations, prison sentences are imposed only in exceptional cases that receive media attention or in cases that are taken up by non-governmental organizations.[27] Victims confirmed that lenient sentences are imposed for bride kidnapping. In one case, the kidnapper and his accomplice were sentenced to two years of house arrest for raping the victim. Parents or other accomplices of the kidnapper are rarely sentenced, although complicity in the crimes under articles 154 (2) and 155 (2) is punishable pursuant to article 30 of the Criminal Code.

41. The State party is focusing on capacity-building to fight impunity for bride kidnapping. It has delegated a number of preventive tasks to local bodies, which do not necessarily have sufficient capacity to perform these functions, including 552 public prevention centres mandated by the Law on Crime Prevention to develop preventive plans on bride kidnapping and village committees on the elimination of domestic violence.

F. Fate of victims within forced marriages and following their termination

42. According to the non-governmental organization Open Line, domestic violence is disproportionately prevalent in forced marriages. In most cases, however, victims, who are often destitute, prefer not to file a complaint because they want to preserve family unity or because they are afraid that their children will be taken away from them upon termination of the forced marriage.

43. Several victims complained about exploitation and abuse by family members of their husband, who forced them to do the housework, denied them education and ill-treated or humiliated them. Others reported that their husbands were alcoholics and abusive, had married a second wife in a religious wedding ceremony or had

[26] Meeting with non-governmental organizations at the Meerman Crisis Centre in Karakol on 16 December 2016.

[27] Ibid.

abandoned them. In some cases, victims of bride kidnapping are prompted to commit suicide.[28]

44. According to the Minister of Education, in the six cases of bride kidnapping of girls registered in 2015, all victims had received assistance from the State party to complete their education. This is not the case, however, when the crime is not reported. To keep track of children dropping out of school, educational institutions are required to report such cases to special committees on children's affairs when they have been unable to contact the parents.

45. According to the Ministry of Justice, following the termination of a forced marriage, custody of any children is normally given to the mother. Kidnappers often lose interest in their children and fail to support them financially. Women are at a disadvantage upon termination of a religious union, which fails to protect their economic rights and does not require a court decision on divorce, child custody and alimony. The fact that the father's name is entered into the civil registry only if he is present at the birth registration encourages men to deny paternity to avoid alimony payments. One of the victims interviewed had been able to obtain a court decision ordering the father to pay from 3,000 to 4,000 soms of alimony per month for their four children only because the marriage had been officially registered.[29] Several victims stated that child support benefits are very low in the State party. Their destitute situation reportedly forces many victims to emigrate and leave their children behind.[30] Following separation or divorce from the kidnapper, victims often find it difficult to obtain an affordable place at kindergarten for their children.

G. Access to remedies, protection and rehabilitation for victims of bride kidnapping

46. The Committee notes that the lack of legal literacy had prevented several of the victims interviewed from reporting their cases to the police. Non-governmental organizations informed the designated members that, although during the consideration and following the adoption of the amendments to the Criminal Code in 2013, civil society had increased public awareness of the criminalization of bride kidnapping, legal literacy remained low, especially with regard to the procedure for reporting the crime.[31] Other barriers to reporting noted by victims included limited trust in the justice system, fear of stigmatization, the costs of court proceedings, possible criminal law consequences for family members and interviews with victims frequently being conducted by male police officers or together with the perpetrator.

47. Limited access to legal aid prevents many victims of bride kidnapping from gaining access to justice. A network of 10 legal aid centres providing free legal aid has reportedly assisted some 38,000 applicants since 2010. However, legal aid is normally available only to the accused. Although victims of crimes can apply for legal aid under Order No. 5415, the Family Code and a new law on legal aid, in practice

[28] Lucio Valerio Sarandrea, "In Kyrgyzstan, a new law protects girls against early marriage", UNDP in Europe and Central Asia, 25 November 2016.

[29] In a survey by a non-governmental organization, 205 victims responded that their kidnapping had been "legitimized" through customary marriage. In 23 per cent of those cases, the marriage was later officially registered. Six victims responded that their marriage had been officially registered without any religious ceremony, and seven victims lived neither in a religious union nor an officially registered marriage (Open Society Institute and Open Line, bride kidnapping analysis report, Bishkek, 2010, pp. 56–57).

[30] Meeting with non-governmental organizations at the Meerman Crisis Centre in Karakol on 16 December 2016.

[31] Ibid.; and concluding meeting with non-governmental organizations in Bishkek on 18 December 2016.

they receive legal assistance during court proceedings only from non-governmental organizations that receive little or no State funding and depend on donor support.

48. Several victims alleged that the police or the lawyer of the accused had tried to dissuade them from pursuing a complaint.[32] Others acknowledged that duty officers at police stations or investigative officers had provided them with procedural information or assisted them in drafting a complaint.[33] The Office of the Ombudsperson sometimes assists victims with court proceedings or refers them to non-governmental organizations. According to non-governmental organizations, the existing free nationwide 24-hour hotline is little known and is not specifically oriented towards victims of bride kidnapping.[34]

49. The State party has taken a number of measures to encourage victims of bride kidnapping to file criminal complaints. The Ministry of Internal Affairs has established a department for legal assistance that is mandated to provide support to victims and witnesses.

50. According to the Ministry of Internal Affairs, of the more than 5,000 protection orders issued in domestic violence cases in 2016, 28 related to victims of bride kidnapping. Local police can issue temporary protection orders valid for 15 days, while court orders are valid for one month. In addition to victims, any witnesses or crisis centres can apply for protection orders. The designated members ascertained the lack of preventive protection orders for victims who face repeated kidnapping attempts by the perpetrator or when there are sufficient grounds to believe that such an attempt is imminent.

51. The Supreme Court informed the designated members that courts are unable to order victim rehabilitation measures, as there is no specific legislation or budget for assistance to victims of bride kidnapping. Psychological counselling is provided to victims of gender-based violence essentially only by non-governmental organizations, such as the Sezim Crisis Centre in Bishkek, which offers individual and group therapy. Victims described these services as extremely helpful. According to the Director of the Sezim Crisis Centre, more than 4,000 victims of gender-based violence have received assistance at the centre since its establishment in 1998. Owing to its limited capacity, the centre provides services to victims of bride kidnapping who have escaped forced marriage only in exceptional cases.

52. Sezim and a few other independent crisis centres run by civil society, such as the Meerman Crisis Centre in Karakol and the Ak-Jurok Crisis Centre in Osh, are the only ones providing shelter and basic items to victims of gender-based violence. An association of 13 non-governmental crisis centres provides social and legal support to victims of gender-based violence. However, only seven were operational at the time of the visit, owing to limited funding.

53. The independent crisis centres receive little if any financial support from the State party. Sezim receives 20 per cent of its funding from the Ministry of Labour and Social Development, and the Office of the Mayor of Bishkek has made premises available for the Sezim shelter and pays its public utility bills. However, international donor support was not secured beyond 2017. The Meerman shelter is funded entirely by donors, and Ak-Jurok makes use of a room at the hospital in Osh, where it can temporarily shelter victims of domestic violence. As these shelters are overcrowded, victims of bride kidnapping can be admitted only in serious cases of gender-based violence. The Sezim shelter was able to receive 264 persons in 2014.

[32] Interview with victim A. from Talas region, 18 December 2016.
[33] Interview with victim A. from Jalalabad, 12 December 2016.
[34] Initial meeting with non-governmental organizations in Bishkek on 13 December 2016.

VII. Legal findings

A. State party's obligations under the Convention in relation to bride kidnapping

54. States parties are obliged not to cause discrimination against women through acts or omissions and to react actively against discrimination against women, regardless of whether such acts or omissions are perpetrated by the State or by private actors.[35]

55. Discrimination can occur through the failure of States not only to take the necessary legislative measures but also to enforce existing laws.[36] In this regard, the Committee recommended that the State party strengthen the capacity of judges and law enforcement agencies to protect women and girls from bride kidnapping and provide systematic training on the criminal nature of this harmful practice (CEDAW/C/KGZ/CO/4, para. 20 (b) and (c)).

56. The Committee recalls that the abduction of girls and women for child and/or forced marriage is not only a harmful practice but also a pervasive form of gender-based violence against women,[37] especially if accompanied by rape. States parties have a due diligence obligation under article 2 (e) of the Convention to take all appropriate measures to prevent, investigate, prosecute, punish and provide reparations for acts or omissions by non-State actors that result in gender-based violence against women, including acts of bride kidnapping. The failure of a State party to take all appropriate measures to prevent acts of bride kidnapping when its authorities know or should know of the danger of such acts, or the failure to investigate and punish perpetrators and to provide reparations to victims of such acts, serves as tacit permission or encouragement of bride kidnapping.[38]

57. Under article 2 (c) of the Convention, States parties must ensure that victims of bride kidnapping have recourse to affordable, accessible and timely remedies, with legal aid, if necessary, free of charge. They must provide access to appropriate reparations.[39] Ensuring access to justice may require that fees for legal aid and issuing or filing documents, as well as court, transportation, room and board costs, are waived or reduced.[40] It also requires supportive environments and legal literacy programmes that empower victims to claim their rights without fear of retaliation.[41] States parties should also financially support organizations that provide legal aid to victims.[42]

58. States parties are required, under articles 2 (f) and 5 (a) of the Convention, to destigmatize victims of bride kidnapping who are asserting their rights[43] and to modify or eradicate prejudices, stereotypes and practices that are the root cause of

[35] General recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, para. 10.

[36] Ibid.

[37] General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, para. 14.

[38] Ibid., para. 24 (b).

[39] General recommendation No. 28 (2010), para. 34; and joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014), para. 55 (q).

[40] General recommendation No. 33 (2015) on women's access to justice, para. 17 (a).

[41] Ibid., paras. 33 (c) and 51 (d).

[42] Ibid., para. 37 (d); and general recommendation No. 28 (2010), para. 34.

[43] General recommendation No. 33 (2015), para. 25.

this harmful practice,[44] in collaboration with the education system, the media, civil society and communities.[45]

B. Violations of rights under the Convention

1. Right to live free from gender-based violence against women

(a) Lack of awareness-raising to prevent bride kidnapping

59. The Committee acknowledges the efforts made by the State party to raise public awareness of the criminal nature of bride kidnapping by including gender equality and women's rights in certain school curricula and training for teachers. However, the limited effectiveness of these measures underlines the need to take more systematic and comprehensive preventive measures to eliminate patriarchal stereotypes that persist in the State party, especially in rural areas, which perpetuate the social legitimization of bride kidnapping and forced marriage.

(b) Adequacy of the legislative framework

60. The Committee acknowledges that the penalties in articles 154 (2) and 155 (2) of the Criminal Code are commensurate with the gravity of the crimes and exclude the possibility of merely imposing a fine. However, the State party's failure to specifically criminalize marital rape denies victims of bride kidnapping effective legal protection against rape within forced marriage.

61. The Committee notes that rape is subject to private-public prosecution, in accordance with article 26 (3) of the Code of Criminal Procedure, and that victims of bride kidnapping must therefore complain specifically of non-consensual sexual intercourse following the bride kidnapping for the crime of rape to be prosecuted. The Committee notes that article 26 (3) weakens the protection that the law should afford victims of rape, as rape is punishable by five to eight years' imprisonment (article 129 of the Criminal Code) and therefore constitutes a grave crime within the meaning of article 12 of the Criminal Code that should be prosecuted ex officio.

62. The Committee notes the absence of legislation providing for mandatory restraining or protection orders to safeguard women and girls at risk of bride kidnapping, even when the perpetrator makes repeated attempts to abduct a victim or when there are sufficient grounds to believe that such an attempt is imminent.

(c) Lack of law enforcement

63. Compared with the number of cases of bride kidnapping per year, estimated at 12,000, the conviction rates under articles 154 (2) and 155 (2) of the Criminal Code are extremely low (CEDAW/C/KGZ/CO/4, para. 19). Family members or friends who are complicit in the crime are rarely charged or convicted. The Committee considers that the sentencing policy of the State party in relation to bride kidnapping is too lenient given that the courts tend to impose suspended sentences or fines, especially when dealing with first-time offenders, rather than imposing the penalties stipulated in articles 154 (2) and 155 (2).

64. In addition, the law enforcement bodies are too passive when investigating complaints. Police officers are often reluctant to intervene in cases of bride kidnapping and encourage victims to withdraw their complaint, or they close cases

[44] General recommendation No. 35 (2017), para. 26.

[45] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014), para. 81; and general recommendation No. 33 (2015), para. 35.

upon reconciliation, notwithstanding their duty to investigate further. In some cases, they reportedly obstruct criminal proceedings upon payment of a bribe.

65. The public nature of the crimes under articles 154 (2) and 155 (2) allows the police to initiate criminal proceedings in the absence of a complaint. However, as noted, police officers do not seem to be aware of, or ignore, such a possibility. This is aggravated by the reluctance of victims and their families to report cases of bride kidnapping to the police for fear of social stigma or when family members of the victim have been complicit in the kidnapping. The Committee observes that the non-enforcement of articles 154 (2) and 155 (2), although they are of a public nature, gives rise to impunity, as many criminal cases are never initiated in the absence of a complaint from the victim.

66. In the Committee's view, the fact that non-consensual sexual intercourse following bride kidnapping is prosecuted as rape only if declared as such in the victim's complaint serves as further evidence of the State party's failure to comply with its duty to prosecute such severe crimes ex officio.

(d) Lack of capacity-building and awareness-raising for the judiciary and police

67. The Committee notes the limited impact of capacity-building for judges, prosecutors and law enforcement officials and the need for further mandatory, recurrent and effective training on the strict application of legislation criminalizing bride kidnapping.

68. The reluctance on the part of the judiciary and law enforcement bodies to investigate, prosecute and punish acts of bride kidnapping can be attributed to the persistence of discriminatory stereotypes within these bodies. In that regard, the Committee notes the lack of awareness-raising programmes specifically targeting the judiciary and police with the aim of changing traditional attitudes confining gender-based violence to the private sphere, thereby contributing to a culture of silence and impunity surrounding bride kidnapping.

(e) Findings

69. The Committee finds that the State party is in violation of the following articles of the Convention:

(a) 2 (f), 5 (a), 10 (c) and (h) and 16, for failing to take sustained measures to prevent bride kidnapping by eradicating the prejudices, discriminatory stereotypes and practices that are the root cause of this harmful practice;

(b) 1 and 2 (b), (c), (e) and (f), read with articles 5 (a), 12 and 16, for failing to provide for the ex officio prosecution[46] of bride kidnapping and related sexual violence and for mandatory restraining or protection orders to prevent imminent or repeated attempts of bride kidnapping,[47] and for failing to specifically criminalize marital rape;[48]

(c) 1 and 2 (c), (d) and (e), read with articles 5 (a), 12 and 16, for failing to comply with its due diligence obligation to effectively investigate, prosecute and punish cases of bride kidnapping and related sexual violence, and to provide mandatory, systematic and effective capacity-building for the judiciary and law enforcement bodies on the strict application of legislation prohibiting these crimes.

[46] General recommendation No. 35 (2017), para. 32 (a).

[47] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014), para. 55 (p).

[48] General recommendation No. 35 (2017), para. 29 (e).

2. Right to freely choose a spouse, equal rights within marriage and upon its dissolution and prohibition of child and/or forced marriage

(a) Equal right to freely choose a spouse and to enter into marriage only with one's free and full consent

70. The Committee notes that the Constitution of Kyrgyzstan provides for equal rights for men and women to enter into marriage.[49] In practice, however, the social acceptance of bride kidnapping, especially in rural areas, means that many women and girls, unlike men and boys, continue to be subordinated to perpetrators who abduct and force them into marriage without their free, prior and informed consent,[50] sometimes into polygamous unions. The perpetrator has the option to ask an imam or other person to conduct a religious wedding ceremony and, in this way, to seek to legitimize his criminal act.

71. Contrary to the view expressed by some State officials during the visit and the widespread belief that bride kidnapping usually takes place with the consent of the woman or girl, the Committee notes that the circumstances surrounding cases of bride kidnapping, such as sexual violence, pressure imposed by the kidnapper and his family and the stigmatization of victims, make it impossible, in most cases, to determine whether the victim's consent to marriage was free and full.

72. The Committee also recalls that the kidnapper's family routinely seeks the consent of the victim's parents, who are often complicit in the kidnapping, and that imams and other persons officiating at religious wedding ceremonies are not concerned with establishing the free and full consent of the bride, with whom they must not speak behind closed doors. In the Committee's view, unions that disregard the free and full consent of one of the spouses constitute forced marriages and violate the right of women and girls to freely choose a spouse.

73. The Committee concludes that women in the State party do not enjoy the same right as men to freely choose a spouse and to enter into marriage only with their free and full consent. It observes that the practice of bride kidnapping has evolved into a harmful practice and a pervasive form of discrimination against women that violates their rights under article 16, paragraph 1 (a) and (b), of the Convention. This violation can be attributed to the State party's failure to prevent religious unions without the consent of the bride by failing to require the civil registration of a marriage for a religious wedding ceremony to take place or the registration of such a ceremony in an official registry.

(b) Equal rights within marriage and upon its dissolution

74. The Committee notes that the subordinate role of women within marriage is sustained by the persistent gender stereotypes in Kyrgyz society. It considers that the high risk of violence, abuse and deprivation of rights faced by victims of bride kidnapping within forced marriages is a direct consequence of the fact that such unions are based on physical or psychological violence from the very outset.

75. The Committee notes that victims of bride kidnapping are regularly left without protection following the termination of a religious union that has no legal effect. In the absence of the civil registration of the marriage, women are deprived of rights in relation to the sharing of joint marital property and child custody that are normally

[49] Kyrgyzstan, Constitution (as amended on 11 December 2016), article 13; see also Kyrgyzstan, Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women (2008).

[50] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014), para. 16.

afforded to women upon dissolution of a marriage under the State party's Family Code. By failing to require civil registration for a religious wedding ceremony to take place or the registration of such a ceremony in an official registry, the State party fails to prevent situations in which women enter religious unions that have no legal effect, thereby violating its obligation under article 16, paragraph 1 (c), of the Convention to protect the equal rights of women and men within marriage and upon its dissolution.

76. The Committee also notes that the failure of the State party to adopt legislation to protect the rights of women forced into marriage deprives victims of bride kidnapping of the protection afforded to women married under the Family Code.

(c) Prohibition of child and/or forced marriage

77. The Committee welcomes the recent amendment to article 155[1] of the Criminal Code criminalizing persons who officiate at or are complicit in religious wedding ceremonies involving girls. The Committee notes that, before the entry into force of this amendment, there was little indication of any systematic effort on the part of the State party to provide protection and assistance for children at risk, as well as redress for victims, and to end impunity for perpetrators. By failing to provide immediate responses to the particularly vulnerable situation of children who are victims of bride kidnapping and related sexual and gender-based violence, including rape, to require the registration of all religious unions in an official registry, to reintegrate and rehabilitate children who are victims and to effectively prosecute perpetrators, the State party has violated its obligation under article 16, paragraph 2, of the Convention to prohibit child marriage.

(d) Findings

78. The Committee finds that the State party is in violation of the following articles of the Convention:

(a) 16, paragraph 1 (a), (b) and (c), read with articles 5 (a) and 12, for failing to ensure the same right to women as to men to freely choose a spouse and to enter into marriage only with their free and full consent, as well as the same rights during marriage and upon its dissolution, and for failing to protect victims of bride kidnapping from being forced into unions that have no legal effect without their free and full consent and to afford those victims the protection afforded to women married under the Family Code;

(b) 16, paragraph 2, read with articles 5 (a), 10 and 12, for failing to protect girls who are victims of bride kidnapping from being forced into illegal child marriage, with adverse effects on their education, health and development, by not making compulsory the registration of religious unions in an official registry, not prosecuting all persons complicit in a child marriage and not providing immediate redress and assistance to the children who are victims.

3. Right to access to justice and victim support

(a) Lack of legal aid and of measures to support and facilitate reporting by victims

79. The Committee considers that the State party has failed to create a supportive environment for women to report incidents of bride kidnapping and related sexual violence by destigmatizing victims, informing them of their rights to and eligibility for legal aid and raising awareness among the police of the criminal nature of such acts (CEDAW/C/KGZ/CO/4, paras. 18 and 20). It has also failed to encourage victims to file complaints by establishing specialized gender units within law enforcement

and prosecution systems, adequately staffed with female officers,[51] and by adopting standardized procedures for the police on gender-sensitive investigations.[52] While noting that the State party has adopted guidelines and provided training on the interrogation of victims of gender-based violence, the Committee finds that the police practices reported by victims, such as requiring them to face the perpetrator, are indicative of the limited effectiveness of the measures taken.

80. The State party has not taken sufficient measures to remove the barriers to access to justice faced by victims of bride kidnapping. The lack of institutionalized affordable or, if necessary, free legal aid, waivers for expert or document fees and reimbursement of transportation costs[53] deprives many victims without sufficient means of their right to bring their case to court.

81. The Committee notes the lack of effective remedies, protection and support services for female complainants and witnesses of bride kidnapping before, during and after legal proceedings, in particular the absence of an operational network of State-run crisis centres and shelters for women and their children and the lack of financial support from the State budget for independent crisis centres run by non-governmental organizations providing medical, psychological and legal services to victims. It observes that the State party cannot absolve itself of its obligation to ensure protection and assistance to victims of bride kidnapping by delegating the provision of such services to crisis centres and shelters run by non-governmental organizations without adequately funding them and ensuring that their services are accessible to all victims of bride kidnapping.[54]

82. The Committee considers as overly restrictive the evidentiary requirement that violence used to force a victim of bride kidnapping to accept the marriage must be established on the basis of forensic evidence, in addition to a victim's testimony, especially given the absence of institutionalized free medical examinations for victims of sexual and gender-based violence, the difficulties in proving psychological violence, for which forensic evidence can be obtained only in Bishkek, and the fact that victims are frequently required to pay the travel and other costs of obtaining the required medical or psychiatric expertise.[55]

(b) Findings

83. The Committee finds that the State party is in violation of the following articles of the Convention:

(a) 2 (c), 5 (a) and 15, for failing to remove the economic and social barriers to access to justice faced by women who are victims of bride kidnapping, by not providing affordable or, if necessary, free legal aid, as well as reimbursement or waivers for the travel and other costs of obtaining medical or psychiatric expertise, and by failing to create a supportive environment for women to report incidents of bride kidnapping and related sexual violence;

(b) 2 (c) and (e), 12 and 15, for failing to ensure that victims of bride kidnapping have access to effective remedies, including reparations that are proportionate to the gravity of the harm suffered, and that appropriate protection and support services, including a sufficient number of adequately equipped crisis centres

[51] General recommendation No. 33 (2015), para. 51 (c).
[52] CEDAW/C/KGZ/CO/4, para. 20 (b); and general recommendation No. 33 (2015), para. 51 (g).
[53] General recommendation No. 33 (2015), para. 17 (a) and (e).
[54] General recommendation No. 28 (2010), para. 34; and general recommendation No. 33 (2015), para. 37 (d).
[55] General recommendation No. 33 (2015), para. 51 (h).

and shelters, are in place for women and their children before, during and after legal proceedings.

C. Principal findings of violations under the Convention

84. In the light of the above, the Committee finds that Kyrgyzstan has violated the following articles of the Convention: 1 and 2 (b), (c), (e) and (f), read with articles 5 (a), 12 and 16; 1 and 2 (c), (d) and (e), read with articles 5 (a), 12 and 16; 2 (e), 5 (a), 10 (c) and (h) and 16; 16, paragraph 1 (a), (b) and (c), read with articles 5 (a), 10 and 12; 16, paragraph 2, read with articles 5 (a), 10 and 12. These articles should be read together with the Committee's general recommendation No. 21 (1994) on equality in marriage and family relations, general recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention and general recommendation No. 33 (2015) on women's access to justice.

D. Grave or systematic nature of the violations

85. Pursuant to article 8 of the Optional Protocol and rule 83 of its rules of procedure, the Committee must assess whether the violations of rights are grave or systematic.

86. The Committee considers violations to be "grave" if they are likely to produce substantial harm to victims. A determination regarding the gravity of violations must take into account the scale, prevalence, nature and impact of the violations found.

87. The term "systematic" refers to the organized nature of the acts leading to the violations and the improbability of their random occurrence. The Committee has stressed that a systematic denial of equal rights for women can take place either deliberately, namely, with the State party's intent of committing those acts, or as a result of discriminatory laws or policies, with or without such purpose. The systematic nature of violations can also be assessed in the light of the presence of a significant and persistent pattern of acts that do not result from a random occurrence.

88. The Committee assesses the gravity of violations in the State party in the light of the suffering experienced by women and girls subjected to bride kidnapping. It notes, in particular, the harm caused by gender-based violence, including sexual violence, during and following bride kidnapping, as well as the adverse impact that bride kidnapping has on the right of women to freely choose a spouse and to enter into marriage only with their free and full consent. The situation gives women and girls who are victims of bride kidnapping in the State party two deplorable options: (a) to remain in the forced and sometimes polygamous union, in which victims are, in many cases, exposed to sexual violence by the perpetrator and exploited by the perpetrator's family; or (b) to escape the forced marriage, at the risk of revenge violence, separation from their children, poverty, social isolation and stigmatization, and without adequate access to justice, protection and support services. In either case, victims find themselves without appropriate legal or economic protection upon termination of a religious union that has no legal effect. Victims of bride kidnapping are thus torn between submitting to forced marriage, which is frequently accompanied by gender-based violence, and enduring the social, economic and sometimes

life-threatening consequences of escaping such a union. In both cases, they experience violations of their rights.

89. The Committee finds that the State party has failed to implement systematic programmes to raise awareness among the general public of the criminal nature and harmful effects of bride kidnapping in order to challenge its social legitimization, eliminate patriarchal stereotypes and destigmatize victims. It also notes the State party's failure to implement awareness-raising programmes specifically targeting the judiciary and law enforcement officers with the aim of changing persistent attitudes confining gender-based violence to the private sphere, thereby fostering a culture of silence and impunity surrounding bride kidnapping.

90. The Committee considers that the State party has systematically failed to enforce existing laws criminalizing bride kidnapping and child marriage. While it acknowledges the magnitude of these harmful practices, the State party has not made systematic efforts to effectively investigate, prosecute and punish cases of bride kidnapping and related sexual violence. Its failure to remove the economic and social barriers to access to justice faced by women who are victims of bride kidnapping further aggravates the situation of victims and contributes to impunity for perpetrators. The Committee considers that the State party has knowingly accepted these omissions, which are not a random occurrence, as evidenced by the prevalent pattern of bride kidnapping in the State party. They constitute elements of systematic violations of rights under the Convention.

91. The Committee finds that the State party is responsible for the following:

(a) Grave violations of rights under the Convention, considering that the State party has failed to protect a significant number of women and girls from bride kidnapping and related sexual violence, to uphold their right to freely choose a spouse and to enter into marriage only with their free and full consent and to provide adequate access to justice, protection and support to enable women to escape forced marriage, thereby exposing them to and/or unnecessarily prolonging their severe physical and mental suffering;

(b) Systematic violations of rights under the Convention, considering that the State party has knowingly omitted to take effective measures:

(i) To address traditional attitudes and social norms that legitimize bride kidnapping and to destigmatize victims;

(ii) To enforce existing laws criminalizing bride kidnapping and child marriage, to remove the economic and social barriers faced by victims of bride kidnapping and to create a supportive environment that enables victims of bride kidnapping to obtain access to justice;

(iii) To require the civil registration of a marriage for a religious wedding ceremony to take place or the registration of such a ceremony in an official registry.

VIII. Recommendations

A. Legal and institutional framework

92. **The Committee recommends that the State party urgently:**

(a) **Add rape as an aggravating factor in articles 154 (2) and 155 (2) of the Criminal Code and amend article 26 (3) of the Code of Criminal Procedure to**

ensure that rape (article 129 of the Criminal Code), being a grave crime within the meaning of article 12 of the Criminal Code, is prosecuted ex officio;

(b) Adopt legislation to criminalize marital rape and ensure that its definition is based on the lack of freely given consent and takes into account coercive circumstances;

(c) Adopt legislation providing for mandatory restraining or protection orders when a perpetrator makes repeated attempts to abduct a victim or when there are sufficient grounds to believe that such an attempt is imminent, as well as for adequate penalties for non-compliance with such orders;

(d) Amend article 154 of the Criminal Code so that it applies to victims of bride kidnapping who have not attained the age of 18 (rather than 17) years;

(e) Amend article 14 of the Family Code and/or implementing legislation to ensure that the minimum legal age of marriage, established at 18 years for women and men, may be lowered by one year only in exceptional circumstances, provided that the grounds for obtaining permission are legitimate and strictly defined by law, without deference to culture and tradition, and only by decision of a court of law upon the full, free and informed consent of the child or both children, who must appear in person before the court;[56]

(f) Adopt legislation to make it mandatory for educational institutions, teachers, employers, hospitals and social services working with women and/or children to report to the law enforcement authorities if they have reasonable grounds to believe that an act of bride kidnapping has occurred or may occur.

B. Law enforcement

93. **The Committee recommends that the State party:**

(a) Exercise due diligence to prevent, investigate, punish and provide reparations for all crimes of bride kidnapping and related sexual violence;

(b) Provide mandatory, recurrent and effective capacity-building for all law enforcement personnel, including the judiciary, as well as legislators and forensic medical experts, on the effective application of articles 154 and 155 of the Criminal Code, gender-sensitive investigations and their role in prosecuting perpetrators and protecting victims of bride kidnapping;

(c) Provide systematic training to ensure that the public nature of articles 154 (2) and 155 (2) of the Criminal Code, which requires the police to initiate criminal cases even in the absence of a complaint (ex officio), is known to law enforcement officers and that they continue to investigate when a victim withdraws her complaint upon reconciliation with the perpetrator;

(d) Ensure that bride kidnappers and family members or friends who are complicit in the crime are prosecuted and receive penalties that are commensurate with the gravity of the crime;

(e) Establish specialized gender units within law enforcement and prosecution systems, adequately staffed with qualified female officers, and adopt gender-sensitive investigation procedures in bride kidnapping cases, including not requiring the victim to face the perpetrator.

[56] Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child, paras. 20 and 55 (f).

C. Access to justice

94. **The Committee recommends that the State party:**

(a) **Remove the barriers to justice faced by women and girls who are victims of bride kidnapping, including by providing institutionalized affordable or, if necessary, free legal aid, reimbursement of transportation, room and board costs and waivers for expert or document fees, and ensure that psychiatric forensic expertise is available in all regions of the State party;**

(b) **Ensure that victims of bride kidnapping have access to effective remedies, including reparations, such as compensation that is proportionate to the gravity of the harm suffered, including by creating a specific fund to ensure that victims receive adequate reparations when perpetrators are unable or fail to comply with their obligation to provide reparations;**

(c) **Protect complainants and witnesses of bride kidnapping against retaliation before, during and after legal proceedings, in particular through the timely issuance and monitoring of restraining or protection orders and adequate sanctions for non-compliance;**

(d) **Ensure that cases of bride kidnapping are under no circumstances referred to alternative dispute resolution procedures, such as elders' (*aksakals*) courts or mediation;**

(e) **Create a supportive environment to encourage victims to report incidents of bride kidnapping and related sexual violence by:**

(i) **Destigmatizing victims and informing them of available remedies and their right to and eligibility for legal aid;**

(ii) **Ensuring that women are adequately represented in the judiciary and law enforcement agencies;**

(iii) **Establishing a mechanism whereby routine medical examinations are systematically provided to all women and girls reporting instances of bride kidnapping, including for the purposes of collecting forensic evidence and providing post-exposure prophylaxis and treatment to victims of sexual violence, in particular rape;**

(iv) **Ensure that the evidentiary requirements in cases of bride kidnapping are not overly restrictive, inflexible or influenced by gender stereotypes, by allowing photographic evidence, signs of violence and medical reports, as well as by raising awareness among the judiciary and police of the need to give due weight to women's and girls' arguments and testimonies as parties and witnesses.**[57]

D. Equal right to freely choose a spouse and equal rights within marriage and upon its dissolution

95. **The Committee recommends that the State party:**

(a) **Ensure that civil marriages are registered and religious wedding ceremonies are performed only with the free, full and informed consent of both parties;**

[57] General recommendation No. 33 (2015), para. 51 (h) and (i).

(b) Amend the Act on Religious Belief and Practice, so that religious wedding ceremonies can be performed only subject to either the prior registration of a civil marriage[58] or the registration within a short period of time of such a ceremony in an official registry, and provide for criminal penalties in cases of non-compliance;

(c) Strictly enforce article 155[1] of the Criminal Code by prosecuting and punishing persons who officiate at or are complicit in religious wedding ceremonies involving girls, as well as articles 154 (1) and 155 (1) criminalizing child marriage and forced marriage of women, respectively;

(d) Raise awareness among imams and other religious leaders of the above provisions;

(e) Protect the rights of victims of bride kidnapping upon dissolution of a civil marriage or termination of a forced marriage resulting from a religious wedding ceremony by upholding their rights under article 16 of the Convention in relation to the sharing of joint property,[59] alimony and child custody;

(f) Ensure that the names of both parents are entered into the civil registry, irrespective of their attendance at the birth registration;

(g) Provide immediate redress and assistance to girls who are victims or at risk of bride kidnapping for the purposes of child marriage.

E. Victim support

96. **The Committee calls upon the State party:**

(a) To provide a sufficient number (at least one per region) of safe and adequately equipped crisis centres providing medical, psychological and legal services, as well as shelters for victims of bride kidnapping and their children. Where the provision of these services is delegated to independent crisis centres run by non-governmental organizations, the State party should provide them with adequate financial support and, therefore, urgently increase its funding for these centres;

(b) To establish a free nationwide 24-hour hotline that is adequately staffed with trained counsellors to enable victims and witnesses to report acts of bride kidnapping that have occurred or are about to occur;

(c) To adopt adequately funded victim support programmes to provide affordable housing, childcare, education and other basic services to victims of bride kidnapping and their children and to investigate and punish all cases of extortion of bribes from of victims to obtain access to such services.

F. Prevention and awareness-raising

97. **The Committee recommends that the State party:**

(a) Adopt, effectively implement and adequately fund preventive measures to challenge and change the underlying causes of bride kidnapping, including patriarchal attitudes and discriminatory stereotypes that perpetuate or legitimize bride kidnapping and confine gender-based violence to the private

[58] General recommendation No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, para. 26.

[59] Ibid., para. 25.

sphere, and to combat the culture of silence and impunity surrounding bride kidnapping;

(b) Implement and financially support local self-governing bodies and civil society conducting awareness-raising programmes for law enforcement personnel, political, local and religious leaders and the media to promote understanding of the criminal nature of bride kidnapping, and address the stigma faced by victims, in particular those who have escaped child and/or forced marriage;

(c) Integrate educational programmes on women's rights and gender equality, including legal literacy programmes, into curricula at all levels of education to eliminate stereotyped gender roles and deter boys from harmful practices, such as bride kidnapping and child and/or forced marriage;

(d) Adopt guidelines for the training of media professionals and encourage the media to adopt a code of conduct to promote gender-sensitive coverage and public discussion of cases of bride kidnapping and to avoid the portrayal of gender-discriminatory images or content that objectify or demean women and girls.

G. Data collection

98. **The Committee recommends that the State party:**

(a) Establish a system to regularly collect, analyse and publish disaggregated statistical data on the number of complaints about bride kidnapping, the rates of dismissal and withdrawal of complaints, including upon reconciliation, the rates of prosecution and conviction, the sentences imposed on perpetrators and the reparations provided to victims;

(b) Conduct research with a view to obtaining more reliable data on the extent of the practice of bride kidnapping in the State party;

(c) Provide information on the data collected in its fifth periodic report, due in March 2019.